

# **MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS**

**JULY 2, 2008**

## **ROLL CALL**

8 present, 4 absent. Commissioners Sorich, Foley, Granger and Frasz were excused.

## **PRAYER**

Commissioners were led in prayer by Commissioner Fay.

## **APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF JUNE 18, 2008**

**It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to approve the Minutes of the Regular Meeting of June 18, 2008.**

## **ITEMS NOT ON THE AGENDA – SUSPENSION OF THE RULES**

**It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 8 yeas, 0 nays and 4 absent to suspend the rules for the purpose of passing Council Bill No. 08-4 by waiving Subsection 7 of Rule XXXVI of the Rules and Order of Business of the Council of Commissioners, thereby having it considered for Advanced Passage without reference to the Judiciary Committee**

## **PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA**

None

## **CHIEF EXECUTIVE’S REPORT**

Chief Executive Babb reported to Council that they have offered the position of Road Foreman to Tom Loggins and he has accepted as of this morning. We had three very qualified candidates and Tom rose to the top.

Also this week has been very busy with the guests we have coming to town. From Law Enforcement to Public Works, to Fire, to Emergency Services, my office, -- everybody, all hands on deck to make sure that we are ready to go for this

weekend. With all the festivals, your County employees have been very busy. We're excited for this weekend and then moving right into the Folk Festival and Evel Knievel Days and An Ri' Ra. We've got a very busy festival season ahead of us.

Last week I was in Washington, D. C. and hand delivered our Foreign Trade Zone application to the Department of Commerce and met with the Foreign Zone Secretary along with our legal counsel. We're in the pipeline to have that moved through the process. In the next several months we will be working that to make sure that Butte does have the Foreign Trade Zone. He also met with our Congressional delegation back there and our projects are on everybody's radar screen. We should know, hopefully in the next few weeks, on where we're at in the pipeline.

## **SECTION I REQUEST FOR PROPOSALS**

**FOR THE PURPOSE OF RECEIVING SEALED PROPOSALS TO OBTAIN PROFESSIONAL SERVICES FOR A "MUNICIPAL UNDERGROUND STORM WATER SYSTEM ENGINEERING ASSESSMENT AND EVALUATION PLAN." (Communication No. 08-468) Proof of publication was noted and placed on file.**

Dan Dennehy, Assistant Public Works Director, opened the following proposals:

1. Water Environmental Technology and Morrison Mierlie
2. HK Engineering and Pioneer Technical Services, Inc.
3. Allied Engineering Services and MSE, Inc.
4. Robert Peccia and Associates

**It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to refer the proposals back to the Public Works Department for review and report back.**

Mr. Dennehy stated that the Public Works Department will be asking the Technical Review Committee members, myself, Jon Sesso, Rick Larson, Mr. McCarthy from the County Attorney's Office and Wally Choquette to be used as the Committee to look at the Request for Qualifications.

## **SECTION III-A CONTINUATION OF PUBLIC HEARING**

**FOR THE PURPOSE OF SOLICITING COMMENTS ON THE PROPOSED CHANGES FOR THE 2008 GROWTH POLICY UPDATE OF THE CONSOLIDATED CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA. (Proof of publication was noted and placed on file 6/18/08).**

Chief Executive Babb called for any proponents:

Arthur Dick, 100 E, Broadway came forth.

There being no further proponents, Chief Executive called for any opponents. On the third and final call there being none he closed the public hearing at 7:45.

## SECTION II

## CONSENT AGENDA

- A. 1. COMMITTEE OF THE WHOLE MEETING REPORT
- 2. FINANCE AND BUDGET COMMITTEE MEETING REPORT
- 3. JUDICIARY COMMITTEE MEETING REPORT
- 4. PUBLIC WORKS COMMITTEE MEETING REPORT
- 5. PERSONNEL COMMITTEE MEETING REPORT

## B

## PETITIONS

- 1. 08-9 John Harrington, Building Official, requesting on behalf of 4 S LLC to close and vacate a portion of the alley within Block 1 of the Trask Addition. **Recommendation: refer to Public Works Committee.**
- 2. 08-10 Pat Riordan, SID Administrator, requesting creation of Special Improvement Lighting District. **Recommendation: concur and place on file.**

## B.

## COMMUNICATIONS

Before entertaining a motion for approval of the Consent Agenda, Chief Executive Babb called for any “friendly amendments” or segregations.

Commissioner Shaw made a “friendly amendment” to page 18 of the Personnel Committee Meeting Report, Section III, the recommendation should read “Committee recommends to approve, waive the 5-day waiting period and place on file. The second “friendly amendment” is for Communication No. 08-494. The amount that is in this approval of sale and authorization for the preparation of a resolution for 621 W. Quartz. It should not be \$500.00 the last paragraph. It should be \$1,900.00.

Commissioner Moodry called for a “friendly amendment” on Item 16, on page 3. It should Communication No. 08-482 instead of 142. He segregated No. 16 as well.

Commissioner O’Leary segregated Committee of the Whole Report, Section XII, Communication No. 08-384 and Item 11, Communication No. 08-476 and No. 22, Communication No. 08-488.

Commissioner Coleman gave a “friendly amendment” Council Resolution No. 08-46, Line 7 down should be “of” instead of “os”

Chief Executive Babb called for page 4, Number 25, Communication No. 08-491. There is no recommendation on his copy. Commissioner O’Leary said his “friendly amendment” for the Recommendation if to concur and place on file.

**It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to approve the Consent Agenda, Section A, Items 1 through 5, Section B. Items 1 and 2 and Section C, Items 1 through 33 with the exception of those items segregated.**

**Segregations:**

Commissioner O’Leary said there are a number of Communications on this agenda and also in the Committee of the Whole Report having to do with various celebrations or events. They all kind of relate to one another. This particular one, No. 08-384, was approved last week. I just want to say that we are right down to the wire, in fact we are over the wire on this in regard to our insurance requirements. I have been in contact with our Risk Manager, our County Attorney, Bob Rowling this week trying to track down this insurance. At 10 to six I got an e-mail from Virginia Hanson. At 7PM I was in Ed Heard’s office calling Tom Daniel to try to sort this out at the absolute last minute.. This isn’t working. According to Tom Daniel, Mollie Kirk has agreed to step into his office at 8:15 tomorrow and sign the application and deliver the check. Here we are tonight approving something that we’re just hoping happens. Our policy is not working. We will go ahead and approve this because we are not going to say no to the 4<sup>th</sup> of July parade. I’ll stand with the recommendation of the Committee of the Whole on this to approve and place on file. Commissioner Sheehy seconded the motion and it carried with a unanimous verbal vote.

**Communication No. 08-476** from Leo McCarthy and Gina Evans, Mariah’s Challenge Board, requesting permission to use Copper Mountain Park for a free concert on July 5, 2008 to 7:30 PM.

On Commissioner O’Leary’s segregation of No. 11, Communication No. 08-476 he reports that all insurance matters on in order now so his recommendation is to concur and place on file. Commissioner Sheehy seconded the motion and it carried with a unanimous verbal vote.

**Communication No. 08-482** from Tim Clark, Personnel Director, requesting authorization for Chief Executive to enter into contract with International Association of Fire Fighters, Local No. 96.

Commissioner Moodry said when we approved adopting the Fox Lawson Wage Summary he was under the impression that was going to go forward as it was

presented. Now looking at what we are going we are going to ratify with the Union, it is not the same. It is different. Commissioner Moodry asked to hold this until next week and ask Mr. Clark to appear then and explain this. He made this as a motion. It was seconded by Commissioner Sheehy and carried with a unanimous verbal vote.

**Communication No. 08-488** – from Bob Rowling, Parks and Recreation Department, requesting Parks and Recreation Board's approval of various events during the month of July.

Commissioner O'Leary says there is a duplicate effort here. Bob Rowling is asking for concurrence of the boxing night based on a promise that insurance will be provided. These things have to be seen by our Risk Manager and approved. They have to be seen by our County Attorney and approved. We're not sure we will approve the boxing night. Until we have definite word by the people with the authority, we can't go on a recommendation of the Parks and Recreation Director. He asked County Attorney McCarthy to speak. Mr. McCarthy said these extraordinary events are excluded from our normal coverage. It is his understanding that there is a proof of coverage provided for the crowd and probably for the operators, but there is no insurance for participants.

**It was moved by Commissioner O'Leary that we concur with the exception of the boxing night portion of it and place Communication No. 08-488 on file. The motion was seconded by Commissioner Lee and carried with a unanimous verbal vote.**

**Commissioner O'Leary then moved to bring up the Committee of the Whole Report, specifically Section IX, Communication No. 08-342 for reconsideration. The motion was seconded by Commissioner Lee and carried by unanimous verbal vote.**

**Under reconsideration, Commissioner O'Leary moved to deny and place on file Communication No. 08-342. Commissioner Coleman made a substitute motion to hold in abeyance and invite Mr. LeCoure to come before us to address this issue before we make a final decision on it. Commissioner Sheehy seconded the motion and it carried with a unanimous verbal vote.**

### **SECTION III                      COMMUNICATIONS TO BE READ AND ACTED UPON**

1. 08-468      Dan Dennehy, Assistant Director Public Works Department requesting time on 7/2/08 agenda to conduct a request for professional services for the Municipal Storm Water System Engineering Assessment and Evaluation Plan.

**It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to place Communication No. 08-468 on file**

2. 08-479 Donald and Donna Driver, requesting council accept back property purchased under tax sale.

Mr. and Mrs. Driver came to the microphone to explain why they wished the the Council to accept back the property purchased under a tax sale. Donald Driver of 2926 Elizabeth Warren introduced himself and his wife, Donna. After answering questions from the Council, Commissioner Moodry asked County Attorney McCarthy for a legal opinion. He replied that Council needs a report from the treasurer and probably a report from the land sales department. One of the ways you could make a refund is where taxes are erroneously assessed or mistakenly collected. Commissioner Mulcahy so moved the above and motion was seconded by Commissioner Moodry. On the question, Commissioner O’Leary said he thinks that Rob Macioroski and Pat Riordan would tell us that these maps that show lots and houses are not the same as surveys and they are not necessarily accurate. Mr. McCarthy said what he is most concerned about is what are the assessment rolls. Do they show that this is a vacant lot, do they show that there is any kind of buildings – that’s a more troubling concern. Chief Executive Babb explained to the Drivers that what the council has done is hold this in abeyance for a report from the Land Sales and the Treasurer and this will come before council again. He then called for a vote and the motion passes with a unanimous verbal vote.

#### **Emergency Ordinance No. 08-4**

AN ORDINANCE AMENDING SECTION 4 OF SUBSECTION 16.02 OF BUTTE-SILVER BOW ORDINANCE NO. 204; ADDING A NEW SUBSECTION TO THE BUTTE-SILVER BOW MUNICIPAL COD (B-SB MC) TO BE NUMBERED 10.52.027, B-SB MC; PROHIBITING PARKING ON CIVIC CENTER ROAD BETWEEN TEXAS AVENUE AND HARRISON AVENUE AND ON HARRISON AVENUE BETWEEN CIVIC CENTER ROAD AND A STREET BETWEEN THE HOURS OF 6:00 A.M. AND 1:00 P.M. ON JULY 4<sup>TH</sup> OF THIS YEAR; DECLARING THAT AN EMERGENCY EXISTS AND FINDING THE FACTS NECESSARY FOR SUCH EMERGENCY AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

**Commissioner O’Leary moved for approval of Ordinance No. 08-4 on final reading having been deemed fully read at length having been deemed fully read at length. The motion was seconded by Commissioner Lee and carried by a roll call vote of 8 yeas, 0 nays and 4 absent.**

**\*SECTION IV**

**ORDINANCES AND RESOLUTIONS –  
REFERRED TO JUDICIARY**

**1. COUNCIL RESOLUTION NO. 08-46**

A RESOLUTION DECLARING THE INTENTION OF THE COUNCIL OF COMMISSIONERS OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, MONTANA TO CREATE A SPECIAL LIGHTING DISTRICT, TO BE KNOWN AS SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 1028, FOR THE PURPOSE OF DIRECTING, EQUIPPING, MAINTAINING, AND INSTALLING AN ELECTRICAL LIGHTING SYSTEM; DESIGNATING AND AND DESCRIBING THE BOUNDARIES OS SAID PROPOSED SPECIAL IMPROVEMENT LIGHTING DISTRICT; THE PURPOSE OF AND GENERAL CHARACTER OF THE IMPROVEMENTS TO BE MADE IN SAID SPECIAL IMPROVEMENT DISTRICT; ESTIMATING THE APPROXIMATE COST THEREOF FOR THE FIRST YEAR; FINDING, DETERMINING AND DECLARING THAT PROPERTY WITHIN SAID SPECIAL IMPROVEMENT DISTRICT WILL BE ESPECIALLY BENEFITED AND AFFECTED BY SUCH PROPOSED IMPROVEMENT; DECLARING THAT SUCH PROPERTY SHOULD BE ASSESSED FOR THE COST THEREOF OF MAINTENANCE AND ENERGY AND EXTENDING SUCH ASSESSMENTS TO BE IN ANNUAL INSTALLMENT S AND PROVIDING FOR THE FUNDS UPON WHICH SAID SPECIAL IMPROVEMENT ENERGY AND MAINTENANCE FUNDS SHALL BE DRAWN; PROVIDING FOR THE PUBLICATION AND GIVING OF NOTICE OF THE PASSAGE AND ADOPTION OF THIS RESOLUTION AND PROVIDING FOR THE EFFECTIVE DATE HEREOF.

**2. COUNCIL RESOLUTION NO. 08-47**

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A PARCEL OF REAL PROPERTY DESCRIBED AS LOT 3 IN BLOCK 1 OF THE IRON CLAD LODE (AN UNFILED PLAT) BY THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA TO THE ADJOINING OWNER PURSUANT TO POLICIES ADOPTED BY THE COUNCIL OF COMMISSIONERS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

**3. COUNCIL RESOLUTION NO. 08-48**

A RESOLUTION VACATING, CLOSING, DISCONTINUING AND ABANDONING A PORTION OF EAGLE STREET BETWEEN BLOCKS 15 AND 20 AND TWO ALLEYS WITHIN BLOCKS 15 AND 20 IN THE NORTHERN PACIFIC ADDITION WITHIN THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PRESCRIBING THE





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CHIEF EXECUTIVE

ATTEST:

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